IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

Crl.Rev.Pet.No. 100 of 1998()

CRA.378/1996 of V ADDL.SESSIONS COURT, ERNAKULAM
CC.68/1993 of ADDL.CHIEF JUDICIAL MAGISTRATE (E & O),ERNAKULAM

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REVN. PETITIONER:

VASU KUNJIKANNAN MANIYATTOO,
S/O.KUNJIKKANNAN,
PANAYADU VEEDU, NARAVOOR,
KOOTHUPARAMBIL PO, CANNANORE.

BY ADV. SRI.D.PEETHAMBARAN
SRI.VINOD VALLIKAPPAN

RESPONDENTS:

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1. ASSISTANT COLLECTOR,
AIR CUSTOMS, TRIVANDRUM.

2. STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. AJITH KRISHNAN, ADDL.CGSC
PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 100 OF 1998

Dated this the 3rd day of August, 2007

O R D E R

The revision petitioner, who was the accused in C.C.No.68/93 on the file of the Additional Chief Judicial Magistrate, (Economic Offences), Ernakulam for an offence punishable under section 135 (1)(i) of the Customs Act, challenges the conviction entered and the sentence passed against him concurrently by the courts below for the aforesaid offence.

2. The case of the prosecution can be summarized as follows:-

On 25.8.1992 the accused arrived at the Thiruvananthapuram International Airport from Muscat. When PW1, the Intelligence Superintendent attached to the Air Customs, Thiruvananthapuram intercepted him and conducted a body search of the revision petitioner, it resulted in the recovery of 17 gold biscuits of foreign origin kept concealed in the under garments worn by the revision petitioner. The gold biscuits were found to be of 24 carat purity and weighed 1980.500 gms. They were seized under Ext.P2 mahazar. Since the revision petitioner

had no documents to prove the legal importation of the aforesaid foreign biscuits, he had smuggled the same to India in violation of the Foreign Exchange Regulation Act and Customs Act and thereby committed an offence punishable under section 135(1)(i) of the Customs Act. The gold biscuits were having a market value of Rs.7,92,200/- (Rupees seven lakhs ninety two thousand two hundred only).

3. On the accused pleading not guilty to the charge framed against him by the court below for the aforementioned offence, the prosecution was permitted to adduce evidence in support of its case. The prosecution altogether examined five witnesses as PWs 1 to 5 and got marked 11 documents as Exhibits P1 to P11.

4. The revision petitioner denied the incriminating circumstances appearing against him in the evidence for the prosecution. He did not adduce any defence evidence.

5. The learned Magistrate after trial, as per judgment dated 5.11.1996 convicted the revision petitioner for the offence charged against him and sentenced him to undergo rigorous imprisonment for three years and to pay a fine of Rs.40,000/-

(Rupees forty thousand only) and on default to pay the fine to undergo simple imprisonment for one year. An appeal preferred by the revision petitioner before the V Additional Sessions Court, Ernakulam as Criminal Appeal No.378/96 was dismissed confirming the conviction entered and the sentence passed against him. It is the said judgments which are assailed in this revision.

6. Both the courts have recorded the finding after an evaluation of the oral and documentary evidence in the case. I do not find any infirmity in the appreciation of evidence by the courts below. The conviction was rightly recorded against the revision petitioner. This revision which is devoid of any merit is accordingly dismissed.

(V. RAMKUMAR, JUDGE)

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V. RAMKUMAR, J.

Crl. R.P. No. 100 OF 1998

O R D E R

3rd day of August, 2007